



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/375,239 08/16/99 MUSSO

E P8910-9024

EXAMINER

IM22/1228

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SERGEANT, R

ART UNIT

PAPER NUMBER

1711

DATE MAILED:

12/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.
09/375,239

Applicant(s)
Musso et al.

Examiner
Rabon Sergent

Group Art Unit
1711



THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☒ expires five months from the mailing date of the final rejection.

b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 5, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☒ will not be entered because:

☒ they raise new issues that would require further consideration and/or search. (See note below).

☐ they raise the issue of new matter. (See note below).

☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The language regarding the foaming agents being substitutes for CFC11 has not been previously set forth and constitutes a new issue that requires further consideration. Also, the proposed amendment fails to fully address the rejections set forth within paragraphs 4, 8, and 10 of the final Office action.

☐ Applicant's response has overcome the following rejection(s):

☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

Applicants' arguments are based on amendments that have not been entered, and since the prior art rejection is anticipatory, the 37 CFR 1.132 declaration is ineffective to remove the art rejections. Furthermore, (See 'Other')

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 0

Claims objected to: 0

Claims rejected: 1-8, 10-18, 22, and 23

☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☒ Other even if the rejections were obviousness rejections, the showings of the declaration are not commensurate in scope with the claims. The prior art rejections of claims 18 and 22 are withdrawn.

Rabon Sergent
RABON SERGENT
PRIMARY EXAMINER
ART UNIT 1711